

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0216

HOUSE BILL NO. 1041

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to revise how the sales tax applies to certain payments
2 regarding property leased between members of a controlled group.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-20.1 be amended to read as follows:

5 10-45-20.1. Payments made by one member of the controlled group to another member of
6 a controlled group which represent an allocation, reimbursement, or charge for services
7 provided by or rendered by the members of the controlled group are specifically exempted from
8 the provisions of this chapter and the computation of the tax imposed by it. The exemption
9 provided in this section does not apply to the lease of tangible personal property unless the sales
10 or use tax has been paid on the property by the lessor.

11 Section 2. That § 10-45-20.5 be amended to read as follows:

12 10-45-20.5. There are specifically exempted from the provisions of this chapter and the
13 computation of the tax imposed by it, gross receipts from the sale of services rendered by a
14 related corporation as defined in subdivision 10-43-1(11) for use by a financial institution as
15 defined in subdivision 10-43-1(4) or on any service rendered by a financial institution as defined



1 in subdivision 10-43-1(4) for use by a related corporation as defined in subdivision 10-43-1(11).
2 For the purposes of this section, the term, related corporation, includes a corporation which
3 together with the financial institution is part of a controlled group of corporations as defined in
4 26 U.S.C. § 1563 as in effect on January 1, 1989, except that the eighty percent ownership
5 requirements set forth in 26 U.S.C. § 1563(a)(2)(A) for a brother-sister controlled group are
6 reduced to fifty-one percent. The exemption provided in this section does not apply to the lease
7 of tangible personal property unless the sales or use tax has been paid on the property by the
8 lessor.